

## **REMARKS**

Applicants have the following response to the Office Action.

### Claim Rejections - 35 USC §103

#### Claims 10 and 11

In the Office Action the Examiner rejects Claims 10 and 11 under 35 USC § 103 as being unpatentable over Liprie (U.S. 6,635,008) in view of Waksman et al. (U.S. 7,160,238). This rejection is respectfully traversed.

While Applicants traverse this rejection, in order to advance the prosecution of this application, Applicants are amending independent Claim 10 to recite the feature of dependent Claim 11 of a graphical user interface controlled by the microprocessor for visually indicating which of one or more of the catheter, fluid cartridge and source cartridge is not attached to the catheter when operation of the transfer device is prevented.

This feature is clearly not disclosed in Waksman. Further, contrary to the Examiner's assertion, there is no disclosure or suggestion of such a graphical user interface for visual indication that an item is not attached in Liprie.

Therefore, independent Claim 10 is not disclosed or suggested by the cited references, and is patentable thereover. Accordingly, it is respectfully requested that this rejection be withdrawn.

#### Claims 20-23

The Examiner also rejects Claims 20-23 under 35 USC § 103 as being unpatentable over Waksman in view of Spako et al. (U.S. 5,103,395). This rejection is also respectfully traversed.

While Applicants traverse this rejection, in order to advance the prosecution of this application, Applicants are amending independent Claim 20. For example, Claim 20 has been amended to recite that the storage sleeve includes two slots, one disposed on the side by the light source and one disposed on the side by the photosensors. The claim further recites that wherein the plane of light shines through the first slot, the storage sleeve and the second slot and is received by the photosensors when the treating element is not within the lumen of the storage sleeve, and wherein if some treating elements are within the lumen of the storage sleeve but one or more of the treating elements is missing from the sleeve, a portion of the plane of light will shine through the first slot, the storage sleeve and the second slot and be received by the photosensors, the microprocessor then being able to determine based on the amount of light received by the photosensors that one or more of the treating elements is missing.

It is respectfully submitted that cited references do not disclose or suggest these claimed features. For example, the Examiner admits that Waksman does not disclose a system for detecting the presence of absence or the treating element. With regard to Spako, there appears to be no disclosure or suggestion in Spako of the slots in the storage sleeve for allowing light through when one or more of the treatment elements is missing and being able to determine when some treating elements are present that one or more of the treatment elements is missing based on the amount of light received by the photosensors, as opposed to just determining if treatment elements are there or not. Instead, Spako appears to merely be directed to whether the catheter is in the proper locked position (col. 13, lines 32-35), not whether treating elements are present or not, and certainly not if some of the treating elements are present and some are missing.

Therefore, independent Claim 20 is not disclosed or suggested by the cited references, and Claim 20 and those claims dependent thereon are patentable thereover. Accordingly, it is respectfully requested that this rejection be withdrawn.

#### Claim 23

The Examiner also rejects Claim 23 under 35 USC § 103 as being unpatentable over Liprie, in view of Waksman. This rejection is also respectfully traversed.

While Applicants traverse this rejection, in order to advance the prosecution of this application, Claim 23 has been amended in a manner similar to Claim 10 to recite a graphical interface. As explained above, the cited references do not disclose or suggest this feature.

Therefore, independent Claim 23 is not disclosed or suggested by the cited references and is patentable thereover. Accordingly, it is respectfully requested that this rejection be withdrawn.

#### Information Disclosure Statement

The Examiner also objects to the IDS filed 10/27/03 as not including copies of the foreign references.

It is noted that each of the references cited in that IDS was previously cited in the parent application 09/469,510 for which an earlier filing date is relied upon under 35 USC 120. 37 CFR 1.98(d) states:

d) A copy of any patent, publication, pending U.S. application or other information, as specified in paragraph (a) of this section, listed in an information disclosure statement is required to be provided, even if the patent, publication, pending U.S. application or other information was previously submitted to, or cited by, the Office in an earlier application, unless:

- (1) The earlier application is properly identified in the information disclosure statement and is relied on for an earlier effective filing date under 35 U.S.C. 120; and
- (2) The information disclosure statement submitted in the earlier application complies with paragraphs (a) through (c) of this section.

As Applicants have complied with each of the requirements in 37 CFR 1.98(d), the previously submitted IDS and 1449 form (without references) was proper, and the references should have been considered.

However, in order to advance the prosecution of this application, Applicants are submitting a copy of each of the objected and non-considered references.

It is respectfully requested that this IDS and these references be entered and considered prior to the issuance of any further action on this application.

#### Conclusion

It is respectfully submitted that the present application is now in a condition for examination and should be examined.

If any fee should be due for this amendment, please charge our deposit account 50/1039.

Favorable reconsideration is earnestly solicited.

Date: April 26, 2007

Respectfully submitted,

/Mark J. Murphy/  
Mark J. Murphy  
Registration No. 34,225

COOK, ALEX, MCFARRON, MANZO,  
CUMMINGS & MEHLER, LTD.  
200 West Adams Street - #2850  
Chicago, IL 60606  
(312)236-8500  
Customer No. 26568